अति महत्वपूर्ण

संख्या-16 /2020 /ए-1-10 भा0स0 /दस-2020

प्रेषक,

संजय कुमार मिश्र,

संयुक्त सचिव,

उत्तर प्रदेश शासन।

सेवा में,

समस्त अपर मुख्य सचिव/प्रमुख सचिव/ सचिव,

उत्तर प्रदेश शासन ।

वित्त (लेखा) अनुभाग-1 लखनऊ : दिनांक : 29 दिसम्बर, 2020

विषय - असामान्य न्यून बिड्स की दशा में अतिरिक्त परफार्मेन्स सिक्योरिटी /परफार्मेन्स सिक्योरिटी/ बिड सिक्योरिटी/अर्नेस्ट मनी डिपाजिट के सम्बन्ध में ।

महोदय,

कृपया उपर्युक्त विषयक डा0 टी0वी0 सोमनाथन, सचिव (व्यय विभाग), वित्त मंत्रालय, भारत सरकार, नई दिल्ली के अर्द्व शासकीय पत्र संख्या-9/4/2020 PPD दिनांक 12 नवम्बर, 2020 व उसके साथ संलग्न पत्रों (छायाप्रति संलग्न) का अवलोकन करने का कष्ट करें ।

2- इस सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि कृपया उक्त सन्दर्भित पत्रों में की गयी अपेक्षानुसार अपने स्तर से आवश्यक कार्यवाही करने का कष्ट करें ।

संलग्नक-यथोपरि ।

भवदीय,

संजय कुमार मिश्र

संयुक्त सचिव ।

संख्या- 16 /2020 /ए-1-10 भा0स0 (1) /दस-2020 तद्दिनांक ।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1- सचिव (व्यय), व्यय विभाग, वित्त मंत्रालय, भारत सरकार, नार्थ ब्लॉक , नई दिल्ली-110001

2- अपर मुख्य सचिव/प्रमुख सचिव/ सचिव, श्री राज्यपाल, उत्तर प्रदेश।

3- प्रमुख सचिव, विधान सभा/विधान परिषद्, उत्तर प्रदेश ।

आज्ञा से,

संजय कुमार मिश्र

संयुक्त सचिव ।

1- यह शासनादेश इलेक्ट्रानिकली जारी किया गया है, अत: इस पर हस्ताक्षर की आवश्यकता नहीं है ।
2- इस शासनादेश की प्रमाणिकता वेब साइट http://shasanadesh.up.gov.in से सत्यापित की जा सकती है ।

http://shasanadesh.up.gov.in

No. 4866 /MS/G1/2020

डॉ. टी. वी. सोमनाथन, आई.ए.एस.
सचिव (व्यय)
Dr. T. V. Somanathan, I.A.S.
Secretary (Expenditure)

सत्यमेव जयते

भारत सरकार
वित्त मंत्रालय
व्यय विभाग
Government of India
Ministry of Finance
Department of Expenditure
नॉर्थ ब्लाक, नई दिल्ली-110001
North Block, New Delhi-110001
Tel. : 23092929, 23092663
Fax : 23092546
E-mail : secyexp@nic.in
Website : www.finmin.nic.in

स्वच्छ भारत
एक कदम स्वच्छता की ओर

D.O. No.9/4/2020-PPD

Dated 12th November 2020

Dear *Chief Secretary*,

The Government of India has received many representations that, on account of slowdown in economy due to the pandemic, there is an acute financial crunch among many commercial entities and contractors, which in turn is affecting timely execution of contracts. It has also been represented that this may affect the ability of contractors to bid in tenders and hence reduce competition. Requests are being received for reduction in quantum of various deposits which contractors are required to make in the Government contracts.

2. Keeping in view the above circumstances, the Government of India has issued following instructions, which are attached herewith:

(i) Reduction in Performance Security from existing 5-10% to 3% of the value of the contract.

(ii) No provisions regarding Bid Security should be kept in the Bid Documents in future and only provisions for Bid Security Declaration should be kept in the Bid Documents.

(iii) No provision should be kept in the Bid Documents regarding Additional Security Deposit/ Bank Guarantee (BG) in case of Abnormally Low Bids.

3. State Governments are requested to kindly consider issuing similar instructions in respect of procurement by the State Government, by State Government public undertakings, local bodies and all agencies controlled by them.

With regards,

Yours sincerely,

(T. V. Somanathan)

Chief Secretaries of all States
(Through email)

Email **csup@nic.in**

Reduction in quantum of various deposits by contractors in Government contracts.

From : K.NARAYANA REDDY <kn.reddy@gov.in> Thu, Nov 12, 2020 02:30 PM

Subject : Reduction in quantum of various deposits by contractors in Government contracts. 4 attachments

To : CS AP <cs@ap.gov.in>, Naresh Kumar <cs-arunachal@nic.in>, Jishnu Barua IAS <cs-assam@nic.in>, Chief Secretary Bihar <cs-bihar@nic.in>, Chief Secretary Office <csoffice.cg@gov.in>, Chief Secretary <cs-goa@nic.in>, chiefsecretary@gujarat.gov.in, Mr VIJAI VARDHAN <cs@hry.nic.in>, Anil Khachi <cs-hp@nic.in>, cs-jandk <cs-jandk@nic.in>, Shri Sukhdev Singh <cs-jharkhand@nic.in>, cs@karnataka.gov.in, Dr(Mr) Dr. Vishwas Mehta Mehta <chiefsecy@kerala.gov.in>, Iqbal Singh Bains <cs@mp.nic.in>, cs-madhyapradesh@nic.in, cs@maharashtra.gov.in, cs-manipur <cs-manipur@nic.in>, cso-meg <cso-meg@nic.in>, cs-mizoram <cs-mizoram@nic.in>, Mr TALI TOY <csngl@nic.in>, Asit Kumar Tripathy <csori@nic.in>, Chief Secretary, Punjab <cs@punjabmail.gov.in>, Chief Secretary, Rajasthan <cs-rajasthan@nic.in>, Prakash <cs-skm@hub.nic.in>, chief secretary <cs-uttaranchal@nic.in>, cs@tn.gov.in, Somesh Kumar IAS <cs@telangana.gov.in>, cs-tripura <cs-tripura@nic.in>, CHIEF SECRETARY GoUP <csup@nic.in>, chiefsec@wb.gov.in, Shri Vijay Kumar Dev <csdelhi@nic.in>, Shri. Dineshwar Sharma IPS <lk-admin@nic.in>, Praful Patel <administrator-dd@gov.in>, Chief Secretary Andamans <cs-andaman@nic.in>, Chief Secretary CS, Puducherry <cs.pon@nic.in>, cs-westbengal <cs-westbengal@nic.in>

Cc : Sanjay Aggarwal <sanjay.aggarwal68@nic.in>

Sir/ Madam,

Please find attached D.O. No.9/4/2020-PPD dated 12.11.2020 alongwith the attachements.

Thanks & Regards
K. Narayana Reddy,
Deputy Secretary,
Ministry of Finance,
Department of Expenditure,
Procurement Policy Division,
516, Lok Nayak Bhavan,
New Delhi.
Phone:-24621305
Mobile-9711347714

No. F.9/4/2020-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

512, Lok Nayak Bhawan, New Delhi
Dated the 12th November 2020

OFFICE MEMORANDUM

Subject: Additional Performance Security in case of Abnormally Low Bids (ALBs).

The Government is in receipt of many representations that on account of slowdown in economy due to the pandemic, there is acute financial crunch among many commercial entities and contractors, which in turn is affecting timely execution of the contracts. It has also been represented that this may affect the ability of contractors to bid in tenders and hence reduce competition. Requests are being received for reduction in quantum of Security Deposits in the Government contracts.

2. In this context, it is noted that Additional Performance Security in case of Abnormally Low Bids (ALBs) is being taken from the contractors by various Ministries/ Departments though there is no provision for the same in General Financial Rules (GFRs) 2017 or the Manuals for Procurement issued by this Department.

3. As per para 7.5.7 of the Manual for Procurement of Goods 2017 issued by this Department, a*n Abnormally Low Bid is one in which the bid price, in combination with other elements of the Bid, appears so low that it raises material concerns as to the capability of the bidder to perform the contract at the offered price. Procuring Entity may in such cases seek written clarifications from the bidder, including detailed price analyses of its bid price in relation to scope, schedule, allocation of risks and responsibilities, and any other requirements of the bids document. If, after evaluating the price analyses, Procuring Entity determines that the bidder has substantially failed to demonstrate its capability to deliver the contract at the offered price, the Procuring Entity may reject the bid/ proposal. However, it would not be advisable to fix a normative percentage below the estimated cost, which would be automatically be considered as an abnormally low bid. Due care should be taken while formulating the specifications at the time of preparation of bid document so as to have a safeguard against the submission of abnormally low bid from the bidder.*

4. In view of above, **it is reiterated that no provisions should be kept in the Bid Documents regarding Additional Security Deposit/ Bank Guarantee (BG) in case of Abnormally Low Bids.**

5. Wherever, there are compelling circumstances to ask for Additional Security Deposit/ Bank Guarantee (BG) in case of ALBs, the same should be taken only with

the approval of the next higher authority to the authority competent to finalise the particular tender, or the Secretary of the Ministry/ Department, whichever is lower.

6. These instructions will be applicable for all kinds of procurements viz. Goods, Consultancy, Works, non-consulting Services etc.

(Kotluru Narayana Reddy)
Deputy Secretary to the Govt. of India
Tel: 24621305
Email: kn.reddy@gov.in

To,

All the Secretaries and Financial Advisers to Government of India

Copy to: Secretary, Department of Public Enterprises with a request to issue the same instructions to Central Public Sector Undertakings (CPSUs).

No. F.9/4/2020-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

512, Lok Nayak Bhawan, New Delhi
Dated the 12th November 2020

OFFICE MEMORANDUM

Subject: Bid Security/ Earnest Money Deposit.

The Government is in receipt of many representations that on account of slowdown in economy due to the pandemic, there is acute financial crunch among many commercial entities and contractors, which in turn is affecting timely execution of the contracts. It has also been represented that this may affect the ability of contractors to bid in tenders and hence reduce competition. Requests are being received for reduction in quantum of Security Deposits in the Government contracts.

2. As per Rule 170 of General Financial Rules (GFRs) 2017, Micro and Small Enterprises (MSEs) and the firms registered with concerned Ministries/ Departments are exempted from submission of Bid Security. Further, in lieu of Bid Security, Ministries/ Departments may ask bidders to sign "Bid Security Declaration" accepting that if they withdraw or modify their bids during period of validity etc., they will be suspended for the time specified in the tender documents. Similar provisions also exist in the Manuals for Procurement of Works 2019 and Manual for Procurement of Consultancy & other Services 2017.

3. In this context it is noted that Bid Security (also known as Earnest Money Deposit) is still being taken from the contractors by the various Ministries/ Departments, though the relaxations have already been provided in General Financial Rules (GFRs) 2017.

4. In view of above, it is reiterated that notwithstanding anything contained in Rule 171 of GFRs 2017 or any other Rule or any provision contained in the Procurement Manuals, **no provisions regarding Bid Security should be kept in the Bid Documents in future and only provision for Bid Security Declaration should be kept in the Bid Documents.**

5. Wherever, there are compelling circumstances to ask for Bid Security, the same should be done only with the approval of the next higher authority to the authority competent to finalise the particular tender or the Secretary of the Ministry/ Department, whichever is lower.

6. The above instructions will be applicable for all the tenders issued till 31.12.2021.

7. These instructions will be applicable for all kinds of procurements viz. Goods, Consultancy, Works, non-consulting Services etc and are issued under Rule 6(1) of the GFRs 2017.

(Kotluru Narayana Reddy)
Deputy Secretary to the Govt. of India
Tel: 24621305
Email: kn.reddy@gov.in

To,

All the Secretaries and Financial Advisers to Government of India

Copy to: Secretary, Department of Public Enterprises with a request to issue the same instructions to Central Public Sector Undertakings (CPSUs).

No. F.9/4/2020-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

512, Lok Nayak Bhawan, New Delhi
Dated the 12th November 2020

OFFICE MEMORANDUM

Subject: Performance Security.

As per Rule 171 of General Financial Rules (GFRs) 2017, Performance Security is to be obtained from the successful bidder awarded the contract for an amount of five to ten percent of the value of the contract to ensure due performance of the contract. Similar provisions also exist in the Manual for Procurement of Works 2019 and Manual for Procurement of Consultancy & other Services 2017 issued by this Department.

2. The Government is in receipt of many representations that on account of slowdown in economy due to the pandemic, there is acute financial crunch among many commercial entities and contractors, which in turn is affecting timely execution of the contracts. It has also been represented that this may affect the ability of contractors to bid in tenders and hence reduce competition. Requests are being received for reduction in quantum of Security Deposits in the Government contracts.

3. In view of all above, it is decided to reduce **Performance Security from existing 5-10% to 3% of the value of the contract** for all existing contracts. However, the benefit of the reduced Performance Security will not be given in the contracts under dispute wherein arbitration/ court proceedings have been already started or are contemplated.

4. Further, all tenders/ contracts issued/ concluded till 31.12.2021 should also have the provision of reduced Performance Security.

5. In all contracts where Performance Security has been reduced to 3% in view of above stipulations, the reduced percentage of Performance Security shall continue for the entire duration of the contract and there should be no subsequent increase of Performance Security even beyond 31.12.2021.

Similarly, in all contracts entered into with the reduced percentage of Performance Security of 3%, there will be no subsequent increase in Performance Security even beyond 31.12.2021.

6. Wherever, there is compelling circumstances to ask for Performance Security in excess of three percent as stipulated above, the same should be done only with the approval of the next higher authority to the authority competent to finalise the

particular tender, or the Secretary of the Ministry/ Department, whichever is lower. Specific reasons justifying the exception shall be recorded.

7. These instructions will be applicable for all kinds of procurements viz. Goods, Consultancy, Works, non-consulting Services etc and are issued under Rule 6(1) of the GFRs 2017.

(Kotluru Narayana Reddy)
Deputy Secretary to the Govt. of India
Tel: 24621305
Email: kn.reddy@gov.in

To,

All the Secretaries and Financial Advisers to Government of India

Copy to: Secretary, Department of Public Enterprises with a request to issue the same instructions to Central Public Sector Undertakings (CPSUs).